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Filing date: **03/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|------------------------|---|
| Proceeding | 91213454 |
| Party | Defendant Disney Enterprises, Inc. |
| Correspondence Address | LINDA K MCLEOD KELLY IP LLP 1330 CONNECTICUT AVE NW, SUITE 300 WASHINGTON, DC 20036 UNITED STATES linda.mcleod@kelly-ip.com, docketing@kelly-ip.com, larry.white@kelly-ip.com, david.kelly@kelly-ip.com, anjie.vichayanonda@kelly-ip.com |
| Submission | Other Motions/Papers |
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| Signature | /Linda K. McLeod/ |
| Date | 03/19/2014 |
| Attachments | Motion to Consolidate and Extend Dates MONSTERS UNIVERSITY Opposition Nos 91211505 and 9123454 (303678-2xD1162).pdf(26992 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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| <p>MONSTER ENERGY COMPANY,</p> <p style="text-align: center;">Opposer</p> <p style="text-align: center;">v.</p> <p>DISNEY ENTERPRISES, INC.,</p> <p style="text-align: center;">Applicant.</p> | <p>Opposition No.: 91211505 Serial No.: 85678138 Mark: MONSTERS UNIVERSITY</p> <p>Opposition No.: 91213454 Serial No.: 85678514 Mark: MONSTERS UNIVERSITY</p> |
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MOTION TO CONSOLIDATE AND EXTEND DATES

Applicant, Disney Enterprises, Inc. (“Applicant” or “DEI”), through its undersigned counsel, hereby moves to consolidate Opposition Nos. 91211505 and 91213454, and extend discovery and trial dates to conform to the schedule set forth in Opposition No. 91213454.

Fed. R. Civ. P. 42(a), as made applicable by Trademark Rule 2.116(a), provides that when actions involving a common question of law and fact are pending before the Board, it may order all the actions consolidated. In determining whether to consolidate cases, the Board weighs the savings in time, effort, and expense that may be gained from consolidation against any prejudice or inconvenience that may be caused by consolidation. TBMP § 511 and cases cited therein.

In both of the pending oppositions, Opposer has alleged priority and likelihood of confusion based on Opposer's alleged common law rights and registrations for marks comprised of or containing MONSTER ENERGY, among others. Moreover, both the opposed applications are for the identical mark: Opposition No. 91211505 involves

application Serial No. 85678138 for MONSTERS UNIVERSITY in International Class 30, and Opposition No. 91213454 involves application Serial No. 85678154 for MONSTERS UNIVERSITY in International Class 29. Both proceedings are still in the early stages.

The discovery period in Opposition No. 91213454 is set to close on August 19, 2014 and the discovery period in Opposition No. 91211505 closed on March 17, 2014.

Further, the parties have been engaged in settlement discussions, including a proposal made by Applicant. Counsel for Applicant has followed-up with Opposer's counsel regarding the proposal, but the parties have been unable to reach a resolution to date.

Applicant submits that the consolidation of the oppositions will reduce the number of filings before the Board, and assist both the Board and the parties in maintaining the cases on the same schedule. Thus, consolidation of these proceedings will result in a savings of time and resources for both the parties and the Board.

Applicant also respectfully requests that the Board reset consolidated discovery and trial dates as set forth below.

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| Initial Disclosures Due | 03/22/2014 |
| Expert Disclosures Due | 07/20/2014 |
| Discovery Closes | 08/19/2014 |
| Plaintiff's Pretrial Disclosures | 10/03/2014 |
| Plaintiff's 30-day Trial Period Ends | 11/17/2014 |
| Defendant's Pretrial Disclosures | 12/02/2014 |
| Defendant's 30-day Trial Period Ends | 01/16/2015 |
| Plaintiff's Rebuttal Disclosures | 01/31/2015 |
| Plaintiff's 15-day Rebuttal Period Ends | 03/02/2015 |

Accordingly, Applicant respectfully requests that the Board grant its Motion to Consolidate & Extend Dates in Opposition Nos. 91211505 and 91213454.

Respectfully submitted,

DISNEY ENTERPRISES, INC.

Dated: March 19, 2014

By: /Linda K. McLeod/

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing MOTION TO CONSOLIDATE AND EXTEND DATES was served by first class mail, postage prepaid, on March 19, 2014, upon Counsel for Opposer at the correspondence addresses of record below. A courtesy copy of this document was also emailed to opposing counsel.

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